

<p style="text-align: center;">Limited Source Justification and Justification for Other than Full and Open Competition</p>

"Source Selection Information – see FAR 2.101 and 3.104"

1. Identification of the agency and contracting activity.

- **Federal agency and contracting activity:** HHS – Centers for Medicare & Medicaid Services
- **Sponsoring organization:** Office of Information Services / Consumer Information & Insurance Systems Group
- **Project Officer information**
 - **Project Officer :** Paul Weiss
 - **Mailing address:** 7500 Security Blvd, Baltimore, MD 21244
 - **E-mail address:** paul.weiss@cms.hhs.gov
 - **Telephone number:** (410) 786-6089

2. Nature and/or description of the action being approved.

This justification supports the award of an out of scope modification which adds urgently required additional storage, Layer 7 licenses, and F5 licenses to a Logical Follow-on task order with Terremark Federal Group, Inc.

The services provide the technology infrastructure and service requirements necessary to provide cloud computing to support the development and operations of the projects that support the Affordable Care Act (ACA) implementations. These projects include the Federally Facilitated Marketplace (FFM) and Data Services Hub (DSH).

This action will add open market items to a GSA Schedule 70 task order with Terremark Federal Group, Inc. as well as services that are on Terremark's GSA Schedule 70 contract. The open market items require a Justification for Other than Full and Open Competition (JOFOC) since the items are not included on a GSA Schedule contract, in accordance with FAR Part 6.3. The services that are on schedule require a LSJ.

For administrative convenience, CMS is consolidating the information required in the LSJ and JOFOC into one combined document that fully addresses the requirements of each justification.

- **Acquisition purpose and objectives.**

The goal of this effort is to support the addition of 100TB of storage, three Layer 7 licenses, six 5GB Virtual F5 licenses, and two 3GB Virtual F5 licenses. The items that are being added are in preparation for Open Enrollment (OE) 2015. Open Enrollment is the period of time in which eligible applicants may use the Healthcare.gov website application to shop for and select health insurance coverage.

- **Project background.**

In June 2013, CMS awarded a contract to HP to build and transition the infrastructure from Terremark to the Health Insurance Marketplace Virtual Data Center (HIM VDC).

In February 2014, CMS awarded a limited-source, logical follow-on task order to Terremark Federal Group, Inc. The task order continued the Terremark services as a short-term bridge while CMS continues the transition to the HP HIM VDC.

CMS has elected to continue to utilize the Verizon Terremark Data Center as the primary site for production infrastructure hosting services through the OE 2015 period. CMS plans on utilizing the HP Virtual Data Center as a development environment and alternate site for backup. This approach will better position CMS to implement a scalable, robust, and secure hosting site for the Open Enrollment period with adequate time for end to end testing of the Marketplace systems.

As a result of this modification, CMS will add 100TB of storage, three Layer 7 licenses, six 5GB Virtual F5 licenses, and two 3GB Virtual F5 licenses to the existing storage services procured by this order.

3. Description of the supplies or services required to meet the agency's needs (including the estimated value).

- **Project title:** Cloud Computing Services

- **Project description**

The services provide the technology infrastructure and service requirements necessary to provide cloud computing to support the development and operations of the projects that support the Affordable Care Act (ACA) implementations. These projects

include the Federally Facilitated Marketplace (FFM) and Data Services Hub (DSH).

- **Requirement type.**

- ☐ Support services (non-research & development)
- ☐ Supplies/equipment
- ☒ Information technology (IT)
- ☐ Other (specify): _____

- **Type of action.**

- ☐ New requirement
- ☐ Follow-on
- ☒ Other (specify): ____Modification to add out of scope services and open market items

- **Proposed contract/order type.**

- ☒ Firm-fixed-price
- ☐ Time and materials
- ☐ Indefinite delivery (specify whether indefinite quantity, definite quantity, or requirements): _____
- ☐ Other (specify): _____

- **Acquisition identification number:**

Contract: GS-35F-0073U

Order: HHSM-500-2014-00355G

- **Total estimated dollar value and performance/delivery period.**

The estimated value of the additional services is estimated at \$1.8M and the services will run through March 31, 2015. The GSA schedule items are valued at \$1.4M and the open market items are valued at \$392k.

4. Identification of the justification rationale [see 8.405-6(a) and (b)] and, if applicable, a demonstration of the proposed contractor's unique qualifications to provide the required supply or service.

a. Acquisition authority.

This acquisition is conducted under the authority of the Multiple Award Schedule Program. Consideration of schedule contractors will be restricted to fewer than the number required by Federal Acquisition Regulation (FAR) 8.405-6(a)(1)(i)(A) (i.e., fewer than three FSS contractors) and Federal Acquisition Regulation (FAR) 6.302-2 . There is an urgent and compelling need to acquire these services and following the procedures would result in unacceptable delay.

b. Demonstration of the proposed contractor(s) unique qualifications to provide the required supply or service.

- **Name and address of the proposed contractor(s).**

Terremark Federal Group, Inc., One Biscayne Tower, 2 S. Biscayne Boulevard, Suite 2800, Miami, FL 33131-1800

- **Nature of the acquisition and proposed contractor(s) unique qualifications.**

The open enrollment period will run from November 15, 2014 through February 28, 2015.

During the October CMS' OE 2015 preparation reviews and readiness testing conducted in October 2014, the performance testing and analysis of the additional required support of the on-boarding users revealed that the current storage is not sufficient to sustain operations through open enrollment. Based on the program's requirements to maintain data and to have it available upon request for successful enrollments, tracking, and auditing purposes, the storage needs to be increased to support notices and increased applicants, and additional servers. In addition, as the second year of the program there is a requirement to generate and store additional notices (i.e. open enrollment notices and renewed policies).

CMS could not have reasonably predicted this storage shortfall. This program is in its infancy and CMS has no historical evidence upon which to base systems performance parameters.

Not having the additional storage in place and re-balanced to receive and store the data will cause major losses in the insurance enrollment information as well as program application capabilities. With the criticality of the Marketplace program, the loss of data, prolonged system

outages and/or slow response times for enrollees are unacceptable.

The ACA places a legislative requirement on CMS to provide annual open seasons to allow citizens to apply for health care insurance. CMS is not able to delay this open season to allow for the time to competitively procure the additional storage, and remain in compliance with the law.

If CMS followed normal competitive procedures, a competitive task order would take about six to eight weeks to award. Since the Government learned of the storage shortfall on October 19, 2014, such an action could be completed by December 19, 2014. Then the contractor would need to lead time to install and configure the products. There is insufficient time to increase the required functionality to be ready by November 15, 2014.

Therefore, CMS modified this order to add 100TB of storage, Layer 7 licenses, and F5 licenses in support of OE 2015. The delay would be unacceptable and would cause long outages and slow response times which would give the consumers a poor user experience. Additionally, such a delay would cause harm to the Government. The Government would suffer reputational harm if consumers were not able to shop for and purchase health insurance during this open enrollment period. Consumers, American citizens would not be able to buy health insurance causing some to forgo care, or risk economic catastrophe if they should require medical care while uninsured. Citizens would stand risk of harm and by extension, the Government.

FAR 8.4 also provides that ordering agencies may add items that are not included on the Multiple Award Schedules. These items are defined as open market items. FAR 8.4 permits ordering agencies to add open market items if the agency follows pertinent acquisition regulations, including the requirement to obtain full and open competition described in FAR 6. In accordance with FAR 6.3, this document provides the required documentation and approval of the non-competitive acquisition from Terremark of the open market items described herein.

Additionally there are other reasons why CMS should only procure these services from Terremark. Terremark is the sole source capable of providing the required services.

Terremark is the current provider of cloud services for the Federally Facilitated Marketplace (FFM). Therefore, Terremark is currently providing computing hardware and software environments in their secured facilities from which CMS operates the FFM. It would be untenable for a cloud services provider to permit another cloud services entity to operate within their own cloud infrastructure. CMS would not be able to conduct a separate competition to acquire the open market services and then require Terremark to allow this contractor to service CMS from the Terremark cloud. Nor would it be technically desirable for separate cloud contractors to provide cloud services from separate clouds. Terremark provides a functionally complete set of services. This added storage provides critical functionality and cannot be de-coupled from Terremark's infrastructure without compromising the ability of the Terremark solution to meet the performance requirements. Additionally, there would be negative IT security implications and problem identification/resolution issues entailed in introducing another cloud contractor's services into the Terremark infrastructure. For these reasons, Terremark is the only responsible source from which to upgrade the storage.

5. Determination by the ordering activity Contracting Officer that the order represents the best value consistent with FAR 8.404(d).

The Contracting Officer performed price analysis on the GSA schedule pricing proposed by the contractor. The Contracting Officer requested discounts to the already-negotiated GSA pricing. The Contracting Officer requested the contractor to provide detailed pricing information from the GSA schedule price list illustrating how the contractor derives its proposed pricing for the cloud services. For the labor portions of the required services, the Contracting Officer required the contractor to provide the estimated hours and GSA schedule labor categories proposed to perform the services. The Contracting Officer performed price analysis of these proposed rates and obtained a technical analysis from the CMS program office to determine if the quantities and types of labor are realistic to perform the required services. Based on the analysis described above, the Contracting Officer determined the total proposed price to be fair and reasonable.

In determining the price to be fair and reasonable for the open market items, the Contracting Officer reviewed the commercial price list from the offeror in accordance with FAR 15.402. Consistent with FAR 15.404-1(b)(2)(iv), the Contracting Officer has obtained established catalog prices to determine price reasonableness. In accordance with FAR 15.403-1(b)(3) certified cost/pricing data is not required since the items being

acquired are considered commercial items as defined in FAR 2.101. The Contracting Officer compared the commercial price list, the discounted prices and the proposed prices to determine price reasonableness.

6. Description of the market research conducted among schedule holders and the results, or a statement of the reasons market research was not conducted.

Since CMS has already justified and approved a logical follow-on task order with Terremark in accordance with FAR 8.405-6(a)(1)(i)(C), CMS did not conduct market research in advance of this action. Additionally, CMS performed a competitive procurement for the long-term continuation of these services through the VDC IDIQ and performed market research to determine the appropriate competitive methods to procure the needed services.

7. Any other facts supporting the justification.

Not applicable.

8. Statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the restricted consideration before any subsequent acquisition for the supplies or services is made.



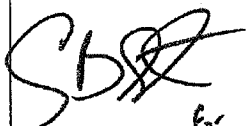
a. Removal of barriers to competition.

CMS awarded a contract to HP in June 2013 to build and transition the current Terremark infrastructure. This modification provided additional storage, Layer 7 licenses, and F5 licenses.

b. Listing of sources, if any, that expressed an interest, in writing, in the acquisition. N/A

9. Program office certification

This is to certify that the portions of this justification that have been developed by the undersigned program office personnel, including supporting information and/or data verifying the Government's minimum needs or requirements, or other rationale for limited sources, are accurate and complete.





Official	Name & Title	Signature	Date
Contracting Officer's Representative	Paul Weiss		11/17/14
Contracting Officer's Representative's Immediate Supervisor	Angela Hitchcock		11/17/14
Head of the Sponsoring Program Office	Janet Vogel		11/17/14

10. Contracting Officer Certification

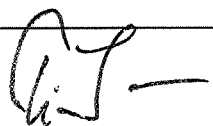
This is to certify that the justification for the proposed acquisition has been reviewed and that to the best of my knowledge and belief the information and/or data provided to support the rationale and recommendation for approval is accurate and complete.

Official	Name & Title	Signature	Date
Contracting Officer	Andrew Mummert	Andy Mummert <small>Digitally signed by Andy Mummert DN: cn=Andy Mummert, o=OAGM, ou=CMS, email=andrew.mummert@cms.hhs.gov, c=US Date: 2014.11.20 08:58:37 -0500</small>	

11. Chief of the Contracting Office and Head of the Contracting Activity signature(s):

Official	Name & Title	Signature	Date
Cognizant Division Director	Andrew Mummert, Director, Division of Information Systems Contracts	 <p>Digitally signed by Andy Mummert DN: cn=Andy Mummert, o=OAGM, ou=CMIS, email=andrew.mummert@cms.hhs.gov, c=US Date: 2014.11.20 08:59:08 -05'00'</p>	
Cognizant Group Director	Don Knode, Director, Information Technology Contracts Group	 <p>Digitally signed by Donald Knode -S Date: 2014.11.20 09:49:51 -05'00'</p>	11/20/2014
Director, Division of Policy Workforce and Systems	Jason Vollmer, Director, Division of Quality Assurance and Technology	 <p>Digitally signed by Jason Vollmer DN: cn=jason.vollmer@cms.hhs.gov Date: 2014.11.20 16:33:34 -05'00'</p>	11/20/2014
Head of the Contracting Activity	Daniel F. Kane, Director, Office of Acquisition and Grants Management		11/26/14

12. Competition Advocate signature:

Official	Name & Title	Signature	Date
Competition Advocate	Tim Love, Chief Operating Officer		11/28/14